IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/09/2003

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.253 of 2003

M.Karunamurthy .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Chief Engineer
Highways and Rural Works
Department, National Highways
Ezhilagam, Chepauk
Chennai-5.

2. The Collector
Office of the Collectorate
Vellore-9.

3. The Revenue Divisional Officer
Office of the Collectorate
Sathuvachery
Vellore-9.

4. The Divisional Engineer
National Highways
Vellore.

5. The Land Acquisition Officer
and Revenue Divisional Officer
Ranipet. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.M.Jothiraman

For Respondents : Mr.M.S.Palanisamy
Addl. Government Pleader

:ORDER

Aggrieved by the proceedings dated 7.12.2002 of the third respondent

refusing to refer the requisition of the petitioner to Civil Court under Section 18 of the Land Acquisition Act (for brevity "the Act") for fixation of higher compensation, the petitioner seeks a writ of Certiorarified Mandamus to call for the records from the third respondent in his proceedings dated 7.12.2002 and quash the same and to consequently direct the fifth respondent to make a reference under Section 18 of the Act to Sub-Court, Vellore for the purpose of determinng the market value of the petitioner's lands comprised in Survey No.84/2-A measuring 537 Sq.ft., in survey No.90 measuring 9228 sq.ft. And in survey No.88/1 measuring 1073 sq.ft.

2. The learned counsel for the petitioner placing reliance on the decision of this Court in M.P.PALANI AND OTHERS Vs. STATE OF TAMIL NADU & OTHERS reported in 1999 WLR 760 contends that the statement of the land owner during the award enquiry asking for higher compensation itself be treated as

an application for reference. In the said decision, it is also made clear that if the compensation was received under protest, in such cases it has to be treated as an application for reference.

3. In the instant case, the learned counsel for the petitioner fairly states that the petitioner did not receive the compensation under protest. On the other hand, the admitted case of the petitioner is that even though the petitioner claimed higher compensation at the award enquiry, he has not filed any document to that effect. In this regard, it is apt to refer Section 18 of the Act, which reads as follows:
"Section:18 - Reference to Court:
(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made:-
(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;
(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2) or within six months from the date of the Collector's award, whichever period shall first expire.

4. A careful reading of the Section 18 of the Act makes it clear that the application for reference under Section 18 of the Act, to refer the matter to Civil Court for determination of the amount of higher compensation, shall contain the grounds on which the objection to the award is taken. That apart, the proviso to Section 18(2) of the Act also prescribes the period of limitation.

5. It is settled law that when the statute specifically prescribes the manner in which the statutory right has to be exercised and the period of limitation for exercising such right, it may not be proper for this Court to commit any violation to such statutory provisions invoking Article 226 of the Constitution of India. Hence, finding it difficult to enlarge the scope of Section 18 of the Act to the facts and circumstances of the present case, this writ petition is dismissed. No costs.

Index : Yes
Internet : Yes
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